

CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA

7575 METROPOLITAN DRIVE, SUITE 103

SAN DIEGO, CA 92108-4402

(619) 767-2370



December 17, 2002

Wed 14a

TO: COMMISSIONERS AND INTERESTED PERSONS**FROM: DEBORAH LEE, SOUTH COAST DEPUTY DIRECTOR
SHERILYN SARB, DISTRICT MANAGER, SAN DIEGO
ELLEN LIRLEY, COASTAL PROGRAM ANALYST, SAN DIEGO****SUBJECT: STAFF RECOMMENDATION ON CITY OF SAN DIEGO MAJOR
AMENDMENT No. 4-01 (TIERRA ALTA REZONE) (For Public Hearing and
Possible Final Action at the Coastal Commission Hearing of February 5-7, 2003)**

SYNOPSIS**SUMMARY OF AMENDMENT REQUEST**

The LCP amendment consists of one item only, the proposed rezone of a 4.44-acre property in the North City LCP segment from AR-1-1 (Agricultural-Residential) to RS-1-13 (Residential Single Unit). The site is in the Mira Mesa Community Plan area, and is located north of Calle Cristobal on the rim overlooking the Los Penasquitos Canyon Preserve. The City reviewed the rezone in conjunction with a specific development proposal for a 10 lot subdivision and construction of 11 single family residences. The local approvals include the subject LCP amendment, rezone, 10-lot tentative map, Planned Residential Development Permit, Resource Protection Ordinance Permit, Coastal Development Permit, Multiple Habitat Planning Area (MHPA) Boundary Adjustment and certification of a Mitigated Negative Declaration. The associated coastal development permit has been appealed and is being held in abeyance pending Commission action on the subject rezone/LCP amendment.

The amendment request was received in the San Diego Area office on December 24, 2001, and was deemed incomplete. Additional information was received on January 18, 2002, and the amendment was deemed filed as of that date. On March 5, 2002 the Commission granted an extension of up to one year. The final date for Commission action is March 19, 2003.

SUMMARY OF STAFF RECOMMENDATION

Staff recommends that the LCP amendment first be denied as submitted, then approved with modifications. The City has approved the entire site to be rezoned from a rural holding zone (AR-1-1) to very low density single family residential (RS-1-13). However, the Mira Mesa Community Plan, which is part of the City's LCP and is the certified Land

Use Plan (LUP) for the site, designates a portion of the site for very low density residential development (0-4 du/a) and a portion for open space. The LUP also includes strong protections for the biologically sensitive resources that are present on most of the site. Staff recommends the property be rezoned in a manner fully consistent with the LUP. To accomplish this, staff recommends rezoning that portion of the site designated for residential use to RS-1-13, and the portion of the site designated for open space to OC (Open Space-Conservation).

The site is partially a flat mesa top and partially steep slopes leading down into Los Penasquitos Canyon Preserve. Nearly all of the site is Environmentally Sensitive Habitat Area (ESHA), including southern mixed chaparral on both the slopes and mesa top, with vernal pool habitat present on the mesa top as well. A small portion of the site has been disturbed by creation of dirt roads in a roughly triangular pattern in the southeastern area of the property; the area within and surrounding the triangle is all southern mixed chaparral (See Exhibit #6). Development of portions of the disturbed area would preclude a 100-foot buffer around the vernal pool habitat and its watershed. However, the Environmentally Sensitive Lands (ESL) ordinance of the City's LCP requires this level of protection, and would require retaining adequate mesa-top land to provide the full buffer. This would still leave about a third of the site potentially available for development. The staff believes a residential and open space zoning split, with strict application of the ESL regulations, can afford the necessary resource protection and is therefore consistent with the habitat protection policies of the certified LUP.

The appropriate resolutions and motions begin on page 4. The suggested modifications begin on page 5. The findings for denial of the Implementation Plan Amendment as submitted begin on page 5. The findings for approval of the plan, if modified, begin on page 10.

BACKGROUND

The City's first Implementation Program (IP) was certified in 1988, and the City assumed permit authority shortly thereafter. The IP consisted of portions of the City's Municipal Code, along with a number of Planned District Ordinances (PDOs) and Council Policies. Late in 1999, the Commission effectively certified the City's Land Development Code (LDC) and a few PDOs; this replaced the first IP in its entirety and went into effect in the coastal zone on January 1, 2000. While it is relatively new in operation, the City is reviewing this plan on a quarterly basis, and is expecting to make a number of adjustments to facilitate implementation; most of these will require Commission review and certification through the LCP amendment process. The City's IP includes Chapters 11 through 14 (identified as the Land Development Code or LDC) of the municipal code.

ADDITIONAL INFORMATION

Further information on the City of San Diego LCP Amendment No. 4-01 may be obtained from Ellen Lirley, Coastal Planner, at (619) 767-2370.

PART I. OVERVIEW**A. LCP HISTORY**

The City of San Diego has a long history of involvement with the community planning process; as a result, in 1977, the City requested that the Coastal Commission permit segmentation of its Land Use Plan (LUP) into twelve parts in order to have the LCP process conform, to the maximum extent feasible, with the City's various community plan boundaries. In the intervening years, the City has intermittently submitted all of its LUP segments, which are all presently certified, in whole or in part. The earliest LUP approval occurred in May 1979, with others occurring in 1988, in concert with the implementation plan. The final segment, Mission Bay Park, was certified in November 1996.

When the Commission approved segmentation of the LUP, it found that the implementation phase of the City's LCP would represent a single unifying element. This was achieved in January 1988, and the City of San Diego assumed permit authority on October 17, 1988 for the majority of its coastal zone. Several isolated areas of deferred certification remained at that time; some of these have been certified since through the LCP amendment process. Other areas of deferred certification remain today and are completing planning at a local level; they will be acted on by the Coastal Commission in the future.

Since effective certification of the City's LCP, there have been numerous major and minor amendments processed. These have included everything from land use revisions in several segments, to the rezoning of single properties, and to modifications of citywide ordinances. In November 1999, the Commission certified the City's Land Development Code (LDC), and associated documents, as the City's IP, replacing the original IP adopted in 1988. The LDC has been in effect within the City's coastal zone since January 1, 2000.

B. STANDARD OF REVIEW

Pursuant to Section 30513 of the Coastal Act, the Commission may only reject zoning ordinances or other implementing actions, as well as their amendments, on the grounds that they do not conform with, or are inadequate to carry out, the provisions of the certified land use plan. The Commission shall take action by a majority vote of the Commissioners present.

C. PUBLIC PARTICIPATION

The City has held Planning Commission and City Council meetings with regard to the subject amendment request. All of those local hearings were duly noticed to the public. Notice of the subject amendment has been distributed to all known interested parties.

PART II. LOCAL COASTAL PROGRAM SUBMITTAL - RESOLUTIONS

Following a public hearing, staff recommends the Commission adopt the following resolutions and findings. The appropriate motion to introduce the resolution and a staff recommendation are provided just prior to each resolution.

- I. MOTION I:** *I move that the Commission reject the Implementation Program Amendment No. 4-01 for the North City segment (Pacific Highlands Ranch) of the City of San Diego certified LCP as submitted.*

STAFF RECOMMENDATION OF REJECTION:

Staff recommends a **YES** vote. Passage of this motion will result in rejection of Implementation Program and the adoption of the following resolution and findings. The motion passes only by an affirmative vote of a majority of the Commissioners present.

RESOLUTION TO DENY CERTIFICATION OF THE IMPLEMENTATION PROGRAM AS SUBMITTED:

The Commission hereby denies certification of the Implementation Program Amendment No. 4-01 submitted for North City segment of the City of San Diego certified LCP (Pacific Highlands Ranch) and adopts the findings set forth below on grounds that the Implementation Program as submitted does not conform with, and is inadequate to carry out, the provisions of the certified Land Use Plan. Certification of the Implementation Program would not meet the requirements of the California Environmental Quality Act as there are feasible alternatives and mitigation measures that would substantially lessen the significant adverse impacts on the environment that will result from certification of the Implementation Program as submitted

- II. MOTION II:** *I move that the Commission certify the Implementation Program Amendment No. 4-01 for the North City segment of the City of San Diego certified LCP (Pacific Highlands Ranch) if it is modified as suggested in this staff report.*

STAFF RECOMMENDATION:

Staff recommends a **YES** vote. Passage of this motion will result in certification of the Implementation Program Amendment with suggested modifications and the adoption of the following resolution and findings. The motion passes only by an affirmative vote of a majority of the Commissioners present.

RESOLUTION TO CERTIFY THE IMPLEMENTATION PROGRAM AMENDMENT WITH SUGGESTED MODIFICATIONS:

The Commission hereby certifies the Implementation Program Amendment No. 4-01 for the North City segment of the City of San Diego certified LCP (Pacific Highlands Ranch) if modified as suggested and adopts the findings set forth below on grounds that

the Implementation Program Amendment with the suggested modifications conforms with, and is adequate to carry out, the provisions of the certified Land Use Plan. Certification of the Implementation Program Amendment if modified as suggested complies with the California Environmental Quality Act, because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the Implementation Program Amendment on the environment, or 2) there are no further feasible alternatives and mitigation measures that would substantially lessen any significant adverse impacts on the environment.

PART III. SUGGESTED MODIFICATIONS

Staff recommends the following suggested revisions to the proposed Implementation Plan be adopted. The underlined sections represent language that the Commission suggests be added, and the ~~struck-out~~ sections represent language which the Commission suggests be deleted from the language as originally submitted.

1. CHANGE TO RESOLUTION, ORDINANCE AND MAP B-4113 IDENTIFYING THE REVISED REZONE:

The City shall approve a new resolution and rezone to reflect split RS-1-13 and OC zoning on the site, as depicted on Exhibit #7, attached. Also, the referenced zoning map (Map B-4113, attached as Exhibit #3), must be modified to graphically depict the RS-1-13 and OC change required in this suggested modification.

PART IV. FINDINGS FOR REJECTION OF THE NORTH CITY SEGMENT OF THE CITY OF SAN DIEGO CERTIFIED LCP IMPLEMENTATION PLAN AMENDMENT, AS SUBMITTED

A. AMENDMENT DESCRIPTION

The subject amendment request proposes to rezone an existing 4.44 acre parcel in the North City LCP Segment (Mira Mesa Community Plan) from AR-1-1 (Agricultural-Residential) to RS-1-13 (Residential-Single Unit). The rezone would allow low density (0-4 du/a) residential development on the site, provided it is consistent with other sections of the LDC, such as the Environmentally Sensitive Lands regulations (ESL). The City reviewed a specific proposal for subdivision of the parcel and subsequent build-out concurrent with processing the rezone. The Commission, however, must address the rezone in isolation and consider the full range of future development that the approved rezone would allow.

B. SUMMARY FINDINGS FOR REJECTION

Briefly, the proposed rezoning does not conform with, nor is it adequate to carry out, the certified Mira Mesa Community Plan. The community plan recognized the severe resource constraints on the site, and delineated only the flat mesa top portion for residential development. The community plan designated those portions consisting of steeper slopes as open space and requires that other significant sensitive resource areas

also be preserved as open space. The City cannot apply a residential zone to the entire site when that is clearly not the intent of the certified LUP.

B. SPECIFIC FINDINGS FOR REJECTION

The standard of review for LCP implementation submittals or amendments is their consistency with and ability to carry out the provisions of the certified LUP.

a) Purpose and Intent of the Ordinance. The RS-1-13 Zone is designed to accommodate low density residential development, and allows densities ranging between 0 and 4 dwelling units per acre. The zone requires 6,000 sq.ft. minimum lots and is intended for use in the city's planned and future urbanizing areas.

b) Major Provisions of the Ordinance.

- Primarily allows single family residences, but small group homes, day care facilities, etc. are also allowed by right, and other uses with discretionary permits.
- Contains development regulations addressing density, lot size, setbacks, floor area ratios, etc.
- Contains regulations addressing lot coverage, garage requirements and accessory structures
- Contains architectural/design requirements

c) Adequacy of the Ordinance to Implement the Certified LUP Segments. The RS-1-13 zone is not appropriate to direct future development of this entire severely-constrained parcel of land. The certified LUP clearly identifies a major portion of this property as open space. The Sensitive Resources and Open Space System of the certified LUP includes many policies addressing protection of the entire Mira Mesa open space system, and additional policies specifically addressing Los Penasquitos Canyon Preserve (Preserve), including those quoted below:

Policy 1.a. states:

Sensitive resource areas of community-wide and regional significance shall be preserved **as open space**. (*emphasis added*)

Policy 4.c. states:

No encroachment shall be permitted into wetlands, including vernal pools. Encroachment into native grasslands, Coastal Sage Scrub, and Maritime Chaparral shall be consistent with the Resource Protection Ordinance. Purchase, creation, or enhancement of replacement habitat area shall be required at ratios determined by the Resource Protection Ordinance or State and Federal agencies,

as appropriate. In areas of native vegetation that are connected to an open space system, the City shall require that as much native vegetation as possible is preserved **as open space**. (*emphasis added – also, the Resource Protection Ordinance [RPO] was part of the City’s old municipal code; these resources are now protected under the Environmentally Sensitive Lands [ESL] regulations.*)

Policy 4.e. states, in part:

Sensitive habitat area that is degraded or disturbed by development activity or other human impacts (such as non-permitted grading, clearing or grubbing activity or four-wheel drive activity) shall be restored or enhanced with the appropriate native plant community. This is critically important when the disturbed area is adjacent to other biologically sensitive habitats. Manufactured slopes and graded areas adjacent to sensitive habitat shall be re-vegetated with the appropriate native plant community, as much as is feasible considering the City’s brush management regulations.

Policy 4.i. states:

Vernal Pools: The remaining vernal pool habitat in the community shall be preserved and shall be protected from vehicular or other human-caused damage, encroachment in their watershed areas, and urban runoff.

Policy 4.l. states:

Maritime Chaparral: Maritime chaparral shall be protected from impacts due to adjacent development, including grading and brush management, that may cause damage or degradation to the habitat qualities of this resource.

Proposal 1. states in part:

Preserve the flood plain and adjacent slopes of the five major canyon systems that traverse the community – Los Penasquitos Canyon ... and the remaining vernal pool sites ... in a natural state **as open space**. (*emphasis added*)

In addition, the Residential Land Use portion of the certified LUP (Mira Mesa Community Plan) includes the following goal and subsequent policies and proposals:

Goal (cover page of element) states:

Residential subdivisions that are designed to preserve Mira Mesa’s unique system of canyons, ridge tops and mesas.

Policy 1. Determination of Permitted Density states:

a. In determining the permitted density and lot size for specific projects, within the density ranges provided under the Proposals below, the City shall take into account the following factors:

1. Compatibility with the policies established in this plan;
2. Compatibility with the density and pattern of adjacent land uses;
3. Consideration of the topography of the project site and assurance that the site design minimizes impacts on areas with slopes in excess of 25 percent **and sensitive biology.** (*emphasis added*)

Policy b. states:

The City shall permit very low density development in canyon and slope areas that are not to be preserved for open space and shall permit flexibility in street improvements in residential subdivisions in topographically constrained sites.

Proposal 1. states in part:

The following density ranges and building types are proposed to meet the goals of this plan: ...

... Very low density: 0-4 dwelling units per gross acre. This density range is proposed for Lopez Ridge and the northeastern corner of the community near Canyon Hills Park. This range is generally characterized by clustered detached single-family or attached multifamily units (such as duplexes and townhomes) built on large hillside parcels **that contain relatively small areas suitable for buildings.** Design flexibility on these hillside parcels is necessary to integrate development with the natural environment, preserve and enhance views, **and protect areas of unique topography and vegetation.** ... The maximum four units per acre is not likely to be achieved except on lots that have large areas in slopes of less than 25 percent. ... (*emphasis added*)

The subject site, a 4.44 acre parcel, consists largely of sensitive biological resources, including southern mixed chaparral and a vernal pool and its watershed. The site consists of a flat mesa top and slopes (some greater than 25% gradient) which continue north, east and west of the site down into the Los Penasquitos Canyon Preserve. The Preserve is a large urban open space system that provides habitat for many sensitive and endangered species, and also provides passive recreational opportunities for the public. It connects on the west to Los Penasquitos Lagoon, and on the east to other open space canyon systems, making it a regionally significant resource.

Only a relatively small portion of the site has been informally disturbed, by foot traffic, mountain bikers and/or off-road vehicles. The largest disturbed area is on the mesa top,

immediately adjacent to the existing terminus of Caminito Rodar, but disturbed pathways lead north/northeast from this area, surrounding an isolated patch of southern mixed chaparral (ref. Exhibit #4). The disturbed area is adjacent to the vernal pool site on the south, east and north, but the lands west of the vernal pool are natively vegetated and lead down into a deep finger canyon. The site is a promontory jutting out into Los Penasquitos Canyon Preserve, and is connected to the community open space system on three sides, with existing residential development located south of the existing fence along the southern property line. The native vegetation on the mesa top is contiguous with, and an extension of, other native vegetation on the canyon slopes.

The cited LUP policies clearly intend that sensitive biological resources be as fully protected as possible, both on slopes and flatter areas. The City-approved rezone applies residential zoning (RS-1-13) to the entire 4.4 acre property. With application of the RS-1-13 Zone to the subject site, the Environmentally Sensitive Lands regulations (ESL) contained in the certified LCP Implementation Plan (Land Development Code) would also apply to development of the site. Pursuant to the ESL, the majority of the environmentally sensitive habitat area (ESHA) on steep slopes would be protected from grading, development and Zone 1 brush management measures. The vernal pool, being a delineated wetland, would be protected, and the ESL would require provision of a minimum 100-foot buffer protecting both the vernal pool and its watershed. However, the City's proposal to apply a residential zone to the entire site ignores the intent of the LUP to place a major portion of the site in open space. Therefore, the proposed rezone is inconsistent with the certified LUP.

PART V. FINDINGS FOR APPROVAL OF THE CITY OF SAN DIEGO IMPLEMENTATION PLAN AMENDMENT, IF MODIFIED

In review of the proposed rezone, the Commission must consider the range of zoning options available in the Land Development Code (LDC) which serves as the certified LCP Implementation Plan. The Commission also recognizes that, regardless of the zone applied to the property, the above mentioned ESL is also applicable where any portion of the premises contains environmentally sensitive lands, including sensitive biological resources and steep hillsides, such as the subject site. These terms are defined in the LDC as follows:

Sensitive biological resources means upland and/or wetland areas that meet any one of the following criteria:

- (a) Lands that have been included in the City of San Diego Multiple Species Conservation Program Preserve;
- (b) Wetlands;
- (c) Lands outside the MHPA that contain Tier I Habitats, Tier II Habitats, Tier IIIA Habitats, or Tier IIIB Habitats;

- (d) Lands supporting species or subspecies listed as rare, endangered, or threatened under Section 670.2 or 670.5, Title 14, California Code of Regulations, or the Federal Endangered Species Act, Title 50, Code of Federal Regulations, Section 17.11 or 17.12, or candidate species under the California Code of Regulations;
- (e) Lands containing habitats with Narrow Endemic Species as listed in the Biology Guidelines in the Land Development Manual; or
- (f) Lands containing habitats of covered species as listed in the Biology Guidelines in the Land Development Manual.

Steep hillsides means all lands that have a slope with a natural gradient of 25 percent (4 feet of horizontal distance for every 1 foot of vertical distance) or greater and a minimum elevation differential of 50 feet, or a natural gradient of 200 percent (1 foot of horizontal distance for every 2 feet of vertical distance) or greater and a minimum elevation differential of 10 feet.

The site of the proposed rezoning includes both steep hillsides and sensitive biological resources. There are areas of 25% or greater slopes on three sides of the flat mesa top, the east, west and north sides, with existing development to the south. These steep hillsides extend from elevation 413 ft. to elevation 342 ft. on-site, then continue down to the canyon bottom. Both the slopes and the majority of the mesa top are covered with southern mixed chaparral vegetation, a Tier IIIA Habitat type. A delineated vernal pool is also present on the mesa top. Moreover, portions of the site, primarily the steep slopes, are within the MHPA.

The Open Space Conservation (OC) zone is very restrictive and does not allow any residential development at all. Thus, the OC zone could only apply to the open space designated portion of the property. The only structural facilities allowed in the OC zone are satellite antennas and nature centers, and these are not allowed by right, but require local discretionary permits. The stated purpose of the open space zones in general is that “these zones be applied to lands where the primary uses are parks or open space or to private land where development must be limited to implement open space policies of adopted land use plans” (*emphasis added*). Specifically, the “OC Zone is to protect natural and cultural resources and *environmentally sensitive lands*. It is intended that the uses permitted in this zone be limited to aid in the preservation of the natural character of the land, thereby implementing *land use plans*.” No residential or residentially-associated uses are allowed within the OC Zone. The City’s certified Open Space Zones are attached to this report as Exhibit #9.

The Commission thus finds the OC Zone an acceptable zone to implement the portions of the site designated open space in the LUP, but the mesa top portion of the site must also be addressed. The potential to apply split zoning to the site was therefore investigated, with the idea of placing the RS-1-13 Zone over the residentially-designated portion and the OC Zone over the portion designated open space. This alternative was ultimately chosen even though many of the significant sensitive biological resources (southern

mixed chaparral and the vernal pool area) are located within the portion of the site that would be zoned residential.

Although not all sensitive resources would be fully protected by the ESL alone, the policy provisions of the certified LUP would also be applicable in the residential portion. Section 126.0708 of the certified LCP (coastal permit regulations) requires the City to make the following findings on any coastal development permit for any proposed development: (a) ... and the proposed coastal development will enhance and protect public views to and along the ocean and other scenic coastal areas as specified in the Local Coastal Program land use plan; (b) The proposed coastal development will not adversely affect environmentally sensitive lands; and (c) The proposed coastal development is in conformity with the certified Local Coastal Program land use plan

The Commission finds that the split OC/RS-1-13 Zones, as certified, can address protection of the various resources on properties like the subject site. The site is partially steep slopes/partially flat, partially designated open space/partially residential, partially in the MHPA/partially outside. It has large areas of sensitive biological resources and minimal disturbed area suitable for development. Not only does the LUP expressly designate everything below the rim of Los Penasquitos Canyon as open space, LUP policies 1.a., 4.c, and proposal 1 (cited on Pages 7, 8 and 9 of these findings) also require the portions of the mesa top that contain significant native vegetation or vernal pools to be protected as well. Applying the requirements of the ESL regulations, together with application of the LUP policies, and zoning all steep slope areas as open space, will provide an appropriate level of resource protection for the subject site.

However, the City's certified LDC includes several other zones that could also be applied to the subject site, particularly the two OR (Open Space Residential) zones, OR-1-1 and OR-1-2. Retaining the existing AR-1-1 (Agricultural-Residential) zone was also considered, but this zone does not implement the LUP designations of open space and residential. In investigating the OR zones, the Commission found that the OR-1-1 zone allows open space with limited private residential development, and some other uses normally associated with single-family residential neighborhoods, like small family day care homes, small residential care facilities, and small transitional homes, or agricultural uses, including aquaculture (see Exhibit 9).

Pursuant to Section 131.0250, development on premises zoned OR-1-1 is generally limited to a 25% maximum developable area, with the OR-1-2 zone containing similar provisions but applicable only to premises partially in and partially out of the MHPA. Applying these open space residential zones to an entire site is one way to assure that all policies of the LUP can be accommodated. The vernal pool and the southern mixed chaparral on the mesa top would be protected from significant disruption while still accommodating some residential development. The Commission finds the OR-1-1 and OR-1-2 zones could be applied to entire premises within and adjacent to the MHPA and designated open space, or sites containing all or nearly all ESHA, such as the subject site.

However, applying the OC zone to the slopes and the RS-1-13 zone to the mesa top, in combination with the habitat protection policies of the LUP, provides an equivalent level

of resource protection. As the property is ultimately developed, only the southeast part of the mesa top is suitable for development for a number of reasons: 1) this is the most disturbed part of the site; 2) this area is least visible from the Los Penasquitos Canyon Preserve; 3) this area is closest to existing development and existing infrastructure. Even more critical, over half the mesa top is covered with southern mixed chaparral, and there is at least one delineated vernal pool (attached correspondence suggests there may be more) in a slightly depressed area of the mesa top. After applying the minimum 100-foot buffer around the vernal pool resources, and implementing the LUP policies addressing sensitive vegetation connected to an open space system (Los Penasquitos Canyon Preserve), this is the only area remaining where development could reasonably be proposed. The LUP provides for very low density residential development within a density range of 0-4 units per acre. Due to the highly constrained nature of the mesa top, it is unreasonable to expect that the maximum density could be achieved on this property. Full development of the mesa top would result in significant loss of ESHA including southern mixed chaparral and vernal pool resources.

The LUP policies and the ESL regulations will apply to any development proposed on the mesa top, since these policies and regulations are written to fully protect the vernal pool and its required buffer, and further require that native vegetation connected to an open space system be preserved as open space. The ESL regulations require a minimum 100-foot buffer around all delineated wetlands, including vernal pools. In the case of vernal pools, however, it is necessary to protect the entire watershed in order to assure long-term viability of the pool. Thus, the protected area must include both the pool and its entire watershed. These requirements, along with the LUP policies, will further serve as a means to refine which portions of the site are potentially developable. All brush management must occur within the residentially-zoned portion of the site, and be completely outside areas zoned open space, the vernal pool/watershed, and the wetland buffer. Moreover, brush management that removes all habitat value should only occur outside natively vegetated areas. The suggested split zoning assures that the vernal pool and the southern mixed chaparral on the mesa top can thus be protected from significant disruption while still accommodating some residential development.

The site is partially within (slopes) and partially outside (flat areas) the defined Multiple Habitat Planning Area (MHPA) boundaries which delineate the perimeter of the City's habitat protection program responding to state NCCP requirements. The program is not part of the City's certified LCP, although it is referenced in some certified LUPs and portions of the LDC. As stated above, the ESL regulations alone do not protect sensitive habitat areas on flat portions of a site that are not included within the City's MHPA or designated open space, unless the site is zoned OR-1-1. However, although the OR-1-1 zone would protect resources by only allowing a 25% maximum developable area on the entire site, the LUP policies are also applicable to any development proposed on the subject site. These, in conjunction with the RS-1-13 zone and ESL regulations, would result in an equal level of protection. Therefore, Suggested Modification #1 requires the City's approval of a revised ordinance that would establish both the OC and RS-1-13 zones on the property, as shown on Exhibit #7, attached.

In summary, the Commission finds that the certified LCP contains a number of different zones that would ultimately accomplish approximately the same thing. It further finds that the OR zones discussed herein could appropriately be applied to the subject site and be found fully consistent with the certified LCP. However, the Commission also finds that application of the split zoning (OC/RS-1-13) will provide no less protection of sensitive resources than if the OR-1-1 zone was applied to the entire site. Thus, either method of rezoning provides appropriate resource protection. However, due to some minor differences in interpretation of the certified LDC, the City believes the split zoning is a preferable alternative, and also most consistent with the certified LUP. Therefore, the Commission finds the split OC/RS-1-13 zoning is appropriate for the site, and is consistent with, and adequate to carry out, the policies of the certified Mira Mesa Community Plan.

PART VI. CONSISTENCY WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

Section 21080.5 of the California Environmental Quality Act (CEQA) exempts local government from the requirement of preparing an environmental impact report (EIR) in connection with its local coastal program. Instead, the CEQA responsibilities are assigned to the Coastal Commission and the Commission's LCP review and approval program has been found by the Resources Agency to be functionally equivalent to the EIR process. Thus, under CEQA Section 21080.5, the Commission is relieved of the responsibility to prepare an EIR for each LCP.

Nevertheless, the Commission is required in an LCP submittal or, as in this case, an LCP amendment submittal, to find that the LCP, or LCP amendment, does conform with CEQA. In this particular case, the proposed amendment is being certified with suggested modification to apply different zoning to the subject site. As noted in the previous findings, the certified LUP is best implemented through an OC/RS-1-13 split zoning, which provides the greatest protection to the assortment of sensitive resources on the site, and thus minimize to the greatest extent feasible any environmental impacts associated with future development of the site. Thus, the Commission's action is to adopt suggested modifications to apply the OC/RS-1-13 Zones to the property. As modified, there are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact on the environment. Therefore, the Commission finds the subject LCP implementation plan amendment, if modified as suggested, conforms with CEQA.